American Financial Services Association

December 23, 2009

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20511

Re: Proposed Changes to Home Equity Lines of Credit Rules (Docket No. 1367)

Dear Ms. Johnson:

The American Financial Services Association (AFSA) is grateful for the opportunity to comment on the proposed rule amending Regulation Z with respect to home equity lines of credit. AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, credit card issuers, industrial banks and industry suppliers.

AFSA members recognize the need to enhance consumer protection in the residential mortgage loan process. To this end, AFSA members offer the following comments in response to the Agencies' request for comments on specific aspects of the Proposed Rule:

<u>Rescission and Reverse Mortgages</u>. The Board is not at this time, however, specifically addressing issues related to rescinding HELOCs, and requests comment in the proposal on any needed changes to Regulation Z provisions and commentary regarding reverse mortgages. (pg. 43429)

AFSA does not believe there is any need to address revisions to the reverse mortgage rules at this time. Members are unaware of any particular complaints or concerns regarding the usefulness of reverse mortgage loans. Unless there are significant issues, mortgage lenders should be permitted to concentrate on learning the myriad of new rules that have already been proposed before new rules for reverse mortgage loans are considered.

<u>Account Terminations</u>. The proposal would prohibit creditors from terminating an
account for payment-related reasons until the consumer has failed to make a required minimum periodic payment more than 30 days after the due date for that payment.

The Board is requesting comment on whether a delinquency threshold of more than 30 days or some other time period is appropriate. (pg. 43430)

Thirty days seems an appropriate default period for HELOCs. Creditors should be able to quickly terminate advances when a consumer evidences an unwillingness to make timely payments on the credit that has already been extended.

> ***Reviewing Regulation Z in Stages/ Rescission and Reverse Mortgages.*** ***Based on the comments received and its own analysis, the Board is proceeding with a review of Regulation Z in stages. In January 2009, the Board published final rules regarding open-end (not home-secured) credit (74 FR 5244 (January 29, 2009) (January 2009 Regulation Z Rule), which were the result of the Board's comprehensive review of Regulation Z's open-end (not home-secured) credit rules. At that time, the Board indicated that it was also reviewing open-end home-secured credit rules. This proposal reflects the Board's review of all aspects of Regulation Z and accompanying Official Staff Commentary related to open-end home-secured credit. The Board is not at this time, however, specifically addressing issues related to rescinding HELOCs, and requests comment in the proposal on any needed changes to Regulation Z provisions and commentary regarding reverse mortgages. (pg. 43433)***
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> ***Implementation Period. The Board contemplates providing creditors sufficient time to implement any revisions that may be adopted.***
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> ***The Board seeks comment on an appropriate implementation period. (pg. 43433)***

The proposed rules regarding termination and suspension would reduce uncertainty regarding the current regulations. Therefore, the AFSA members request that they become effective immediately. However, the proposed disclosure changes, such as new formatting and timing rules, if adopted, will require extensive operational and systems changes. AFSA members request an 18 month implementation period for these proposed rules.

> ***Alternative Financing.*** ***The Board is soliciting comment on whether it may be more difficult to seek alternative financing or otherwise mitigate the impact of a change in terms for HELOCs than for credit cards. The Board is also soliciting comment on whether, because changes in terms are more narrowly restricted for HELOCs than for credit card accounts, the impact on consumers of term changes for HELOCs is likely to be less severe than for credit cards and thus whether the proposed time period is likely adequate. (pg. 43436)***

Given the severe restrictions on changing terms on HELOCs in a manner that is unfavorable to the consumer, there is little need to include additional consumer protections regarding changes in terms. Under the current rules, unfavorable new terms are prohibited unless the consumer affirmatively agrees to the change. That would seem to be an adequate consumer protection.

> ***Account Terminations.*** ***Regulation Z currently permits a creditor to terminate a HELOC for several reasons, including when the consumer has "fail[ed] to meet the repayment terms of the agreement for any outstanding balance." The***

> ***proposal would revise this provision to provide that a creditor may not terminate a HELOC plan for payment-related reasons unless the consumer has failed to make a required minimum periodic payment more than 30 days after the due date for that payment.***
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> ***The Board is requesting comment on whether a delinquency threshold of more than 30 days is appropriate, or whether some other time period would better achieve the purposes of TILA. (pg. 43437)***

AFSA members generally agree that a 30 day delinquency threshold is appropriate for account terminations. In practice, AFSA members do not ordinarily terminate an account before a consumer has been delinquent for 30 days or more. However, in a situation where a consumer has requested a loan modification or has claimed imminent default, AFSA members think it is appropriate to allow lenders to terminate that account while the loan modification process takes place. Otherwise, a consumer would be able to continue to take out additional advances, making it difficult for a lender to determine the terms of a modification.

> ***<u>Inability to Repay</u>. The proposed commentary would retain the existing commentary's guidance stating that evidence supporting a creditor's reasonable believe that a consumer is "unable" to meet the repayment terms may include the consumer's nonpayment of debts other than the HELOC. Under the proposal, these payment failures would have to have occurred within a reasonable time from the date of the creditor's review of the consumer's credit performance, with a proposed six-month safe harbor.***
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> ***The Board is requesting comment on whether late payments of 30 days or fewer would be adequate evidence of a failure to pay a debt for purposes of this provision, and whether and under what circumstances credit score declines alone might satisfy the requirements of this provision. (pg. 43437)***

AFSA members believe that late payments of 30 days or fewer would be adequate evidence of a failure to pay a debt for purposes of this provision.

> ***<u>Coordination of "all-in" Definition of Finance Charges</u>. [T]he Board believes that changing the definition of finance charge for HELOC accounts would not have a material effect on the HELOC disclosures and accordingly is unnecessary. However, the Board requests comment on whether there are reasons why consideration should be given to changing the definition of finance charge for HELOCs. For a detailed discussion of the Board's proposals regarding the "all-in" finance charge for closed-end mortgage loans, see the Board's separate Federal Register notice published today. (pg. 43440)***

AFSA agrees that implementing the "all-in" finance charge for HELOCs will make very little difference to consumers, but will create additional compliance burdens for creditors. Given the significant changes all mortgage lenders are struggling with at the moment, we do not support making this change at this time.

Comment re: Occupancy Status of Real Estate Collateral. ***Proposed comment 5-1 generally permits creditors to assume that the property securing the line of credit is the principal residence or a second or vacation home of the consumer and, therefore, that the line of credit is covered by the HELOC rules. (The HELOC rules cover not only credit secured by consumer's principal residence, but also credit secured by vacation and second homes, assuming the credit is for personal, family, or household purposes.) However, creditors are also permitted to investigate the actual use of the property. If the creditor ascertains that the property is not the consumer's principal residence or a second or vacation home, the creditor may comply with the rules applicable to open-end (not home-secured) credit under Regulation Z. In this case, if the credit plan is accessible by credit card, the creditor must comply with, in addition to the rules applicable to open-end credit generally, the rules for open end (not home-secured) credit card plans under § 226.5a and associated sections in the regulation.***

The Board requests comment on whether the proposed comment provides useful and appropriate guidance. (pg. 43441)

AFSA members strongly support the Board's consistent approach with respect to all open-end credit secured by a residence. Allowing creditors to apply the HELOC rules to all open-end residential secured credit is efficient and less costly for creditors than if an investigation into the property's actual use were required. This rule also has the effect of expanding the number of loans for which borrowers receive the consumer protections contained in the HELOC regulations.

Use of "Key Questions" Document in Advertising. ***Unlike the application disclosures and the HELOC brochure that could take up multiple pages in a magazine or other publication, the "Key Questions" document would be one page. Thus, the Board believes that requiring the "Key Questions" document to be disclosed with applications in magazines or other publications would not place undue burdens on creditors. In addition, requiring the "Key Questions" document to be given with applications in magazines or other publications would benefit consumers by providing with the application, information about HELOC terms that are important for consumers to consider when selecting a home-equity product.***

The Board solicits comments on this approach. (pg. 43447)

Advertising space in many popular magazines is vastly more expensive than comparable space in other publications or take-in advertisements. Requiring creditors to include the "Key Questions" disclosures might make offering HELOC advertisements with accompanying applications in magazines impractical for many lenders.

Substituting Account Opening Summary Table for Early Disclosures. ***The Board solicits comment on whether, and if so in what circumstances, creditors should be permitted to substitute the account-opening summary table for the table containing the early HELOC disclosures in situations where the early HELOC disclosures are required to be given at the time the account is opened***

> ***(because account opening occurs within three business days after application). For example, the regulation could provide that, because the account-opening summary table shows only one HELOC payment plan, the account-opening summary table would be permitted to be used in place of the early HELOC disclosures only if the creditor offers only one payment plan or the consumer had already chosen a plan before account opening.***
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> ***The Board also requests comment on how frequently account opening for HELOCs occurs within three business days after application. (pgs. 43451-43452)***

AFSA members request that creditors should be permitted to substitute the account-opening summary table for the early HELOC disclosures when account opening occurs within three days after application. Presumably, the early HELOC disclosures would be virtually identical to the account opening disclosures in this situation. Thus, providing the early HELOC disclosures offers no benefit to the consumer, and this is an opportunity to reduce the number of disclosures a consumer must review at closing. Further, by eliminating the early HELOC disclosures in this situation, the Board would eliminate the cost and environmental impact associated with providing one additional disclosure.

> ***Identity of Creditor. Pursuant to the Board's authority in TILA Section 127A(a)(14) to require additional disclosures for HELOC plans, the Board proposes to require that a creditor disclose as part of the early HELOC disclosures the following identification information: (1) the consumer's name and address; (2) the identity of the creditor making the disclosure; (3) the date the disclosure was prepared; and (4) the loan originator's unique identifier, as defined by the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act") Sections 1503(3) and (12), 12 U.S.C. 5102(3) and (12). 15 U.S.C. 1637a(a)(14). Under the proposal, these disclosures must be placed directly above the table provided as part of the early HELOC disclosures, in a format substantially similar to any of the applicable tables found in G-14(C), G-14(D) and G-14(E) in Appendix G. See proposed §226.5b(b)(2)(iii). Proposed comment 5b(c)(1)-1 clarifies that in identifying the creditor making the disclosure, use of the creditor's name would be sufficient, but the creditor may also include an address and/or telephone number. In transactions with multiple creditors, any one of them would be allowed to make the disclosures; the one doing so must be identified in the early HELOC disclosures.***
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> ***The Board solicits comment on whether the creditor making the disclosures should be required to disclose its contact information, such as its address and/or telephone number. (pg. 43459)***

AFSA members see little need to require the additional information regarding the creditor contact information. At this point in the process, creditors have every interest in staying in close contact with HELOC applicants and should be able to provide appropriate contact information in a form and manner that the creditor feels would be most effective. In addition, the AFSA membership questions the need for much of the new information that the Board is proposing to add. We note in particular that the requirement to include the loan originator's unique identifier at this stage in the process may not be useful. Many states have yet to adopt regulations to implement their SAFE Acts, but they are likely to provide specific guidance as to which loan originator should be identified on the final loan documents. This is particularly an issue for a lender that uses in-house loan originators as opposed to brokers. For example, if one employee takes the application, but another spends much of the time with the applicant explaining loan terms and devising a product that meets the consumer's needs, state regulations may indicate that the second loan originator's unique identification number should be used for the transaction. At the stage when the early disclosures are provided creditors may not be able to identify the loan originator whose unique identifier state regulations will require to be disclosed. In other situations, such as applications made through a web site, there may be no loan originator at this stage of the process.

> ***Loan Originator Identity*. The Board notes that the Board, FDIC, OCC, OTS, NCUA, and Farm Credit Administration have published a proposed rule to implement the SAFE Act. See 74 FR 27386 (June 9, 2009). In this proposed rule, the federal banking agencies have requested comment on whether there are mortgage loans for which there may be no mortgage loan originator. For example, the agencies query whether there are situations where a consumer applies for and is offered a loan through an automated process without contact with a mortgage loan originator. See id. at 27397.**
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> ***The Board solicits comments on the scope of this problem and its impact on the requirements of proposed § 226.5b(c)(1). (pg. 43459)***

The use of automated loan processing methods is growing and is expected to continue to grow. There will be many situations in which no individual will be acting as a loan originator in the application process. Thus, the Board needs to address this possibility in its final regulations.

> ***Disclosure of Length of Plan and Repayment Period*. The Board requests comment on whether additional guidance is needed on how to disclose the length of the HELOC plan and the length of the repayment period in the table where the plan does not have a maturity date and the length of the repayment period cannot be determined at the time the early HELOC disclosures must be given. (pg. 43464)***

Most AFSA members do not offer HELOCs with indefinite terms. However, because other lenders may offer such loans, AFSA members request that the Board allow for flexibility in disclosing the length of the HELOC plan and repayment period where the plan does not have a maturity date and the length of the repayment period cannot be determined.

> ***Length of Draw Period is Indefinite*. Current comment 5b(d)(5)(i)-1 provides that if the length of the plan is indefinite (for example, because there is no time limit on the period during which the consumer can take advances), the creditor must state that fact in the application disclosures when disclosing the length of the draw period. The Board proposes to move this provision from current***

comment 5b(d)(5)(i)-1 to proposed comment 5b(d)(9)(i)-1.iii. Thus, under the proposal, a creditor would be required to make this disclosure in the table as part of the early HELOC disclosures, to satisfy the requirement in proposed § 226.5b(c)(9)(i) to disclose the length of the plan and the length of the draw period.

The Board requests comment on whether additional guidance is needed on how to disclose the length of the plan and the length of draw period in the table when the length of the draw period is indefinite. (pg. 43464)

Most AFSA members do not offer HELOCs with indefinite draw periods. However, because other lenders may offer such loans, AFSA members request that the Board allow for flexibility in disclosing the length of the HELOC plan and the length of the draw period where the length of the draw period is indefinite.

<u>Disclosure of Two Payment Plans</u>. The Board believes that this proposed approach of only allowing two payment plans to be disclosed in the table, and allowing the consumer easily and quickly to receive information about additional payment plans upon request, strikes the proper balance between ensuring that consumers are adequately informed about the payment plans that are offered on the HELOC plan and preventing "information overload" that might result if all payment plans were disclosed in the table.

The Board solicits comment on the proposed approach. (pg. 43466)

It is the experience of AFSA members that many creditors offer three payment plans. For instance, creditors may offer an interest only payment plan, as well as a plan that pays a percentage of outstanding balance (e.g., monthly-payment =1.5% of the outstanding balance), and a fully amortizing payment option. Some creditors also offer a balloon payment option. Given that this is the prevailing practice, the proposal to allow disclosure of only two payment plans is an unworkable requirement for many creditors. Disclosing additional payment plans separately from the table is costly and burdensome for creditors, who will have to develop and provide an additional form. This format may also be misleading to consumers. Consumers will naturally pay most attention to the payment plans that are more prominently disclosed in the table, and may give short shrift, if not totally disregard, a payment plan disclosed separately.

AFSA members request that the Board allow creditors to include three payment plans. This would allow creditors the flexibility needed to alert consumers to their payment options. It would also eliminate the need for a separate payment plan disclosure, which would keep costs down and save paper.

<u>Disclosure of Historical Index Value or APR in lieu of Historical Example Table</u>. Based on this consumer testing, the Board proposes not to require that creditors provide the historical example table as part of the early HELOC disclosures. However, pursuant to the Board's authority under TILA Section 127A(a)(14) to require additional disclosures for HELOC plans, the Board proposes to require a creditor to provide in the table as part of the early HELOC

disclosures the range of the value of the index over a 15-year historical period. 15 U.S.C. 1637a(a)(14). Although many participants in the consumer testing indicated that the historical example table did not provide useful information about how interest rates and payment may change in the future, some participants did indicate that they found it helpful to know how the index had behaved in the past, so that they would have some sense about how it might change in the future. In addition, some participants found the range of the index useful in determining the likelihood of the APR reaching the maximum APR allowed under the plan. The Board believes that the proposed disclosure providing the range of the value of the index over a 15-year historical period will provide the most important information from the historical example table in a simple and efficient way.

The Board solicits comment on the appropriateness of this proposal. The Board also solicits comment on whether the new proposed disclosure should show the range of the APR that would have applied to the HELOC plan over the past 15 years, calculated based on the range of the index value plus the margin that is currently offered to the consumer, or as proposed, simply show the index range. For example, assume the index on the HELOC account is the prime rate and the prime rate varied between 4.25 percent and 10 percent over the last 15 years. In addition, assume the APR offered to the consumer is calculated as the prime rate plus 1.00 percent. Under the new proposed disclosure in proposed § 226.5b(c)(10)(i)(A)(6), a creditor would be required to disclose that over the past 15 years, the prime rate had varied between 4.25 percent and 10 percent. The Board solicits comment on whether the Board should instead require that a creditor disclose, based on the example above, that over the past 15 years, the APR on the HELOC plan offered to the consumer would have varied between 5.25 percent and 11 percent. (pg. 43477)

AFSA members support the move away from the historical example to a simple disclosure of the range of the index value over the last 15 years. As noted by the Board, this helps consumers understand how the particular index moves over time. AFSA members believe that the current example used in the HELOC disclosures sometimes confused customers into thinking that their interest rates would move in the same manner as the yearly examples shown on the chart. This may also be a problem if the Board adopts the suggestion to provide a range of APRs.

<u>Omission of Property Insurance Information from Application Disclosures</u>. Current comment 5b(d)(8)-1 provides that in cases where property insurance is required by the creditor, the creditor may disclose as part of the application disclosures either the amount of the premium or a statement that property insurance is required. The Board proposes to delete this comment as obsolete. Under the proposal, proposed § 226.5b(c)(11) provides that a creditor must not disclose in the table as part of the early HELOC the amount of any property insurance premiums, even if the creditor requires property insurance. The Board believes that disclosure of the amount of any required property insurance premiums is not needed in the table as part of the early HELOC disclosures. Consumers are likely to have property insurance on the home prior to obtaining

a HELOC account. For example, most consumers obtaining a HELOC will already have a first mortgage on their home and will be carrying property insurance on the home as required by the first mortgage.

The Board solicits comment on this aspect of the proposal. (pg. 43480)

AFSA members support the deletion of this comment. Consumers know that property insurance is required for HELOCs and almost all consumers already have the required coverage.

<u>Timing of Prohibition on Account Action</u>. The proposal includes a number of significant changes to the rules restricting changes that creditors may make to HELOCs subject to § 226.5b. First, the proposal would amend § 226.5b(f)(2)(ii), which permits creditors to terminate and accelerate a HELOC if "the consumer fails to meet the repayment terms of the agreement," to prohibit creditors from terminating and accelerating an account or taking lesser action permitted under comment 5b(f)(2)-2, unless the consumer has failed to make a required minimum periodic payment within a specified time period after the due date for that payment. As discussed in more detail below, the Board is specifically proposing that account action under § 226.5b(f)(2)(ii) be prohibited unless the consumer has failed to make a required minimum periodic payment within 30 days of the due date.

The Board is requesting comment on the appropriateness of this timeframe, or whether some other time period is more appropriate. (pg. 43485)

Thirty days seems to be an appropriate default period for HELOCs. Creditors should be able to quickly terminate advances when a consumer evidences an unwillingness to make timely payments on the credit that has already been extended.

<u>Scope of Definition of "Federal Law"</u>. The proposal would amend § 226.5b(f)(2)(iv) to permit creditors to terminate and accelerate home-equity plans if a federal law requires the creditor to do so, expanding this provision to cover other federal laws that may require a creditor to terminate and accelerate a plan. "Federal law" under this provision is limited to any federal statute, its implementing regulation, and official interpretations issued by the regulatory agency with authority to implement such statute and regulation.

With this revision, the Board intends to prevent the need to issue separate revisions to Regulation Z to account for any new federal law requiring creditors to terminate and accelerate plans under particular circumstances. Further discussion of the reasons for this proposal and requests for comment are found in the explanation below of a similar proposal designated as new § 226.5b(3)(vi)(G). Regarding this proposed provision, the Board requests comment on what additional examples of conflicts between Regulation Z's restrictions on account termination and other laws the Board should consider, if any.

The Board also requests comment on whether the definition of "federal law" should be broadened to include, for example, an order or directive of a federal agency. (pgs. 43486-43487)

AFSA members support the proposal to expand § 226.5b(f)(2)(iv) to cover a broader scope of federal laws that may require termination and acceleration of a HELOC plan. AFSA members also request that the definition of "federal law" to include orders and directives of federal agencies.

<u>Scope of Fee Disclosure</u>. The Board is mindful of concerns that consumers may be charged a wide array of fees upon default without adequate notice or explanation. For these reasons, the Board requests comment on the appropriateness of this proposed clarification. The Board also requests comment on whether, if the proposal is adopted, the Board should clarify requirements regarding disclosure of these costs in the initial agreement beyond stating that specific amounts need not be disclosed. For example, would it be sufficient for the creditor to disclose simply the possibility that costs under the three categories contemplated in the proposal – debt collection, collateral protection and foreclosure upon default – may be charged? Or should the creditor be required to itemize in whole or in part the types of costs under each category that could be charged? (pg. 43487)

The proposal advanced by the Board reflects an appropriate compromise. Creditors have never had to itemize and disclose these categories of fees for closed-end mortgage loans. There does not seem to be any reason that such reasonable third-party costs would have to be itemized for HELOCs.

<u>Tolerances for Payments, Costs, and Fees</u>. The Board also considered setting a general standard for changes that would be considered insignificant, such as allowing changes to be deemed insignificant that result in the same or substantially similar payments (including periodic payments and the total of payments), rates, fees, and overall loan costs. One concern about establishing a general standard is that confusion among creditors and consumers, and possibly increased litigation, may result, particularly concerning particularly concerning the meaning of terms such as "substantially similar."

The Board requests comment on whether setting a general standard for term changes that would be considered insignificant is desirable. In this regard, the Board also requests comment on whether prescribing specific tolerances for resulting payments, costs, and fees would be helpful, and what appropriate tolerances might be. (pg. 43489)

AFSA members urge the Board to set general standards for term changes that would be considered insignificant. AFSA members would suggest this generally, but particularly with regard to HELOC accounts that are acquired or where servicing is transferred, that just as with open-end credit that is not secured by real estate, changes that would include changes to balance-computation method, method of application of payments or the payment due date.

<u>Removal of Example of Card Access as "Insignificant Change"</u>. Rather than make a broad revision such as permitting all term changes related to servicing transfers or setting a general standard for determining whether a change in terms is "insignificant," the Board is proposing to clarify that an access device such as a credit card may be eliminated as long as previously available access devices remain available. Creditors indicated that significant problems can arise where credit card access, for example, was available on the plan but a new servicer cannot support this; the creditor may be unable to transfer the servicing or may have to make individual arrangements with each consumer.

The Board requests comment on the appropriateness of this additional example of an insignificant change. In addition, the Board requests comment on whether this example, if adopted, should be modified, broadened, or narrowed. (pg. 43489)

There is a clear need to provide flexibility to terminate credit card access on HELOCs. We also urge the Board to consider a broader exemption related to the transfer of mortgage servicing. Other HELOC terms, such as the use of certain balance calculation methods or the ability to offer a separate fixed-rate, fixed-payment option for a special purchase or specific portion of a HELOC balance can prove to be serious roadblocks for the transfer of portfolios, whether on a voluntary basis or due to a bank failure. Thus, some broader flexibility would seem justified in such unusual situations.

<u>Creditor's Right to Reduce Credit Limit</u>. No changes are proposed to existing comment 5b(f)(3)(vi)-1, which provides that a creditor may temporarily suspend advances on an account or reduce the credit limit only under circumstances specified in § 226.5b(f)(3)(vi), § 226.5b(f)(3)(i) when the maximum annual percentage is reached, or § 226.5b(f)(2), permitting suspension of advances or reduction of the credit limit in lieu of terminating and accelerating the account. See comment 5b(f)(2)-2. The Board requests comment, however, on the portion of this comment providing that the creditor's right to reduce the credit limit does not permit reducing the limit below the amount of the outstanding balance if this would require the consumer to make a higher payment. Specifically, the Board requests whether other limitations on the amount by which a home-equity line may be reduced may be appropriate. For example, should the amount by which a credit line may be reduced for a significant decline in the property value under § 226.5b(f)(3)(vi)(A) (discussed below) be limited to: (1) no more than the dollar amount of the property value decline; (2) no more than the amount needed to restore the creditor's equity cushion at origination (and whether, in this case, the relevant equity cushion should be the dollar amount or the percentage of the home value not encumbered by debt); or (3) some other measure? A related request for comment is whether a creditor should be prohibited from temporarily suspending advances on the line until, for example, the property value declines by the full amount of the credit line. (pgs. 43489-43490)

AFSA members strongly urge the Board not to impose additional limitations on the ability of a creditor to suspend advances or reduce credit limits. In this latest housing crisis, creditors needed all the flexibility available to limit consumers from overextending their credit lines. The experience of the AFSA members was that drops in housing prices were not static. Thus, even though a home's value may have fallen only 15% when the creditor considered taking action, it would have been common for the home value to continue to fall in subsequent months. A rule that would have limited a creditor's action by just the amount of housing decline measured at one point in time would not have been sufficient to protect the creditor and would have suggested to consumers, often falsely, that their housing values had stabilized and that there was sufficient equity in their homes to justify further advances. Creditors generally like to make credit available and to encourage customers to fully utilize their available lines of credit when the customer's home justifies such actions. The Board should not be concerned with creditors over-reacting and limiting credit when such precautions are not necessary.

> ***Request for Suspension of Advances by Owner who is not an Obligor.*** ***Proposed comment 5b(f)(3)(vi)-2 would add that consumers may request not only suspended advances but reduction of the credit limit. It also clarifies that when a consumer later requests reinstatement, but a condition permitting suspension or reduction (under §§ 226.5b(f)(2) or (f)(3)(i) or (f)(3)(vi)), a creditor that therefore does not re-open the plan must provide the disclosure of the specific reasons for the action taken under § 226.9(j)(1) (for temporary suspensions and reductions under §§ 226.5b(f)(3)(i) or (f)(3)(vi)) or (j)(3) (for termination or permitted lesser actions under § 226.5b(f)(2)), as applicable. Concerns were expressed to the Board during outreach for this proposal that under some circumstances, a person with an ownership interest in the property securing the line, but who is not obligated on the plan, may wish to request suspension of advances.***
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> ***The Board has not proposed a change to this provision to address these concerns, but invites comment on the issue. (pg. 43490)***

AFSA members strongly urge the Board to allow consumers with an ownership interest in property securing a HELOC, but who are not obligated on the plan, to request suspension of advances. Family, financial or other circumstances of both the borrower and the property owner may have changed from account opening such that the property owner may no longer be willing to offer the property as collateral. Because creditors can proceed against the underlying property to satisfy the debt, it is only fair to allow the owners of the property to protect their property interests and suspend advances on a HELOC that their property secures.

> ***Significant Property Value Declines Outside of the Safe Harbors.*** ***The Board recognizes that not all property value declines that might reasonably be considered "significant" for taking action under this provision will fall into one of the two safe harbors. Thus, the Board requests comment on whether and what guidance regarding other factors that creditors might consider in determining whether a decline is significant is desirable. Specific comment is requested on whether the Board should provide guidance clarifying that the***

> ***creditor may (but does not have to) consider any changes in available equity based on how much the consumer owes on a mortgage with a lien superior to that of the HELOC. (pg. 43491-43492)***

AFSA members would support additional guidance clarifying that creditors may consider any changes in available equity based on how much the consumer owes on a mortgage with a lien superior to that of the HELOC, as well as whether consumer is in default on a mortgage with a lien superior to that of the HELOC.

> ***Market Area Declines in Value.* The Board also requests comment on whether and under what circumstances it may be appropriate to permit consideration of a clear and consistent trend of declining property values in the market area in which the securing property is located. The Board understands that creditors commonly rely on general market data to validate findings for a property-specific valuation; used in this way, general market data may be a valuable quality control tool contributing to sound portfolio management. (Depending on comments received, the Board would not anticipate that consideration of this factor would be permissible unless the creditor first completed a property valuation that accounts for specific characteristics of the subject property and meets other guidelines proposed in comment 5b(f)(3)(vi)-5.) In addition, the Board solicits comment on the type of market data that would be appropriate, such as data based on publicly available, empirically-based research, as well as on whether a more specific definition of "market area" would be needed and, if so, what definition would be appropriate.***

> ***Finally, as discussed above under the section-by-section analysis on § 5b(f)(3)(vi)***
> ***(specifically concerning comment 5b(f)(3)(vi)-1), the Board requests comment on what, if any, restrictions on the amount by which a credit line may be reduced for a significant decline in value may be appropriate. (pg. 43492)***

AFSA members believe it is appropriate that creditors be allowed to consider a clear and consistent trend of declining property values in the market area where the securing property is located. AFSA members suggest that in order to determine property values, that they should be allowed to rely on quarterly data published by the Federal Housing Finance Agency for Metropolitan Statistical Areas and Divisions. AFSA members do not believe that the amount by which a credit line can be reduced for a significant decline in value should be limited.

> ***"Unable to Pay" Standard.* [T]he Board requests comment on whether the Board should consider expressly interpreting the "unable" to pay standard to mean, for example, that the change in the consumer's financial circumstances resulted in the consumer's likelihood of default "substantially" increasing. Another possible interpretation on which the Board requests comment is that the "unable" to pay standard requires that, as a result in a change in the consumer's financial circumstances, the consumer moved into a higher default risk category than at origination (based on the statistical likelihood of default),***

> ***such that the creditor would not have made the loan or would have made the loan on materially less favorable terms and conditions. (pg. 43493)***

AFSA members agree that the Board should consider expressly interpreting the "unable" to pay standard. AFSA supports guidance that interprets the unable to pay standard to mean that the change in the consumer's financial circumstances resulted in the consumer's likelihood of default "substantially" increasing. However, AFSA requests that the Board also provide guidance on what constitutes a "substantial" increase in likelihood of default.

AFSA members also support guidance that interprets the unable to repay standard to require that, as a result of a change in the consumer's financial circumstances, the consumer moved into a higher default risk category than at origination such that the creditor would not have made the loan or would have made the loan on materially less favorable terms and conditions. However, AFSA requests that the Board clarify what constitutes "materially less favorable terms and conditions."

AFSA believes that the proposal both allows a creditor to protect itself when a loan has become significantly more risky than at the time of origination, and protects consumers from worsening a precarious financial situation.

> ***Six Month Safe Harbor. The Board believes that this six-month safe harbor appropriately observes the statutory and regulatory rule that action can be taken only "during any period in which" the consumer's financial circumstances have materially worsened from those on which the credit terms were based. See 15 U.S.C. 1647(c)(2)(C); §226.5b(f)(3)(vi)(B).***
>
> ***The Board solicits comment on this approach. (pg. 43493)***

AFSA members support the Board's proposed six-month safe harbor for determining when a consumer's financial circumstances have materially worsened.

> ***Credit Score Declines. Several industry representatives requested clarity on whether creditors could rely on credit score declines to satisfy the requirements of § 226.5b(f)(3)(vi)(B). The Board believes that credit score declines may be an appropriate screening tool for determining which consumers to examine more closely for potential action based on this provision. However, the Board is concerned about whether credit score declines alone can meet the required statutory showing. For reasons discussed below, the proposal neither endorses nor prohibits reliance on credit score declines alone to meet the requirements of this provision, but solicits comment on this issue. (pg. 43493)***

AFSA members believe that credit score declines alone would satisfy the requirements of this provision A deterioration in a consumer's credit score indicate a worsening of the individual's financial situation. Occasionally the factors that lead to the lower credit score are hard to pinpoint and explain, but studies have shown the credit scores accurately reflect a consumer's ability to handle credit responsibly. In a report prepared by its own economist, the Board has recognized that information maintained by credit-reporting agencies and reflected in scoring models are valuable for predicting future consumer behavior. The report's summary states:

> Available evidence indicates that the information that credit-reporting agencies maintain on the credit-related experiences of consumers, and the credit history scoring models derived from these experiences, have substantially improved the overall quality of credit decisions while reducing the costs of such decisionmaking. The availability of these data has also greatly enhanced the process of screening prospective customers to facilitate the marketing of credit and insurance products, thereby reducing the costs of such marketing by limiting solicitations to customers who are most likely to qualify for the products. If not for the information that the agencies maintain, consumers on the whole would receive less credit at higher prices. Moreover, the credit-reporting system has become more comprehensive over the past decade or so with notable improvements, such as the adoption of common formats for reporting information and the enhanced reporting of information on credit limits and mortgages. Recent congressional amendments to the FCRA have advanced prospects for future improvements as consumer access to credit records and credit history scores has improved.[1]

To the extent credit scores are predictive as suggested by this Board study, creditors should be able to use them in determining whether borrowers are likely to overextend themselves, and if so, creditors should be able to take immediate action to suspend advances or lower credit limits. The ability to use reliable data such as credit reports can protect consumers, reduce home foreclosures and mitigate losses by creditors.

Additionally, creditors rely heavily on credit scores in making the initial credit determination for a HELOC and therefore it is reasonable to allow creditors to similarly rely on credit scores when determining a customer's ability to repay during the term of the HELOC.

> ***On-going Monitoring*****.** ***The second compliance option permits creditors to forego ongoing monitoring and instead require the consumer to request reinstatement. This option is available only if the creditor complies with the provisions of § 226.5b(g)(2), described below. During outreach for this proposal, the Board was asked to consider requiring ongoing monitoring in all cases, rather than allowing creditors to shift the burden to consumers to request reinstatement. Proposals to strengthen requirements on creditors that require consumers to request reinstatement, as discussed below, were intended in part to address concerns about allowing creditors to require consumers to request reinstatement.***
>
> ***The Board requests comment on requiring ongoing monitoring in all cases, including specific information about potential benefits and burdens of this approach. (pg. 43495)***

1 Robert B. Avery, Paul S. Calem, and Glenn B. Canner, Credit Report Accuracy and Access to Credit, Federal Reserve Board Bulletin 297, 320 (Summer 2004).

AFSA members strongly oppose a requirement that creditors monitor suspended accounts on an ongoing basis. Ongoing monitoring would be extremely costly and burdensome for creditors and would ultimately increase the cost of credit for all borrowers. AFSA members believe that the current proposal that would allow creditors to require consumers to request reinstatement provides adequate protection for consumers. In order to require consumers to request reinstatement, creditors must notify consumers of their right to request reinstatement, engage in a timely investigation and provide the consumer with documentation of the creditors' decision. These requirements provide adequate protection for consumers such that the large burden of ongoing monitoring is not justified.

> ***<u>Time Frame for Action on Reinstatement Request</u>. The Board . . .proposes to require that the creditor complete the investigation and mail a notice of reinstatement results (see proposed § 226.5b(g)(2)(v), discussed in the section by-section analysis below) within 30 days of receiving the consumer's reinstatement request.***
>
> ***The Board requests comment on whether this timeframe is appropriate and whether the Board should consider additional guidance for creditors when consumers do not provide needed information to complete the investigation in a timely manner. Such guidance might, for example, require that the creditor request the information within a reasonable period of time after receiving the reinstatement request, and permit the creditor to delay sending the notice until a reasonable period of time after receipt of the requested information. (pg. 43496)***

AFSA members believe that a 30 day timeframe to complete investigation of a consumer's reinstatement request is appropriate. However, AFSA members request that the 30 day time limit begin to run after the creditor has received all information requested from the consumer. Otherwise, the creditor could end up with far less than 30 days to complete an investigation.

> ***<u>Charging Consumers for Reinstatement Requests</u>. [P]roposed § 226.5b(g)(2)(iii) and (iv) would use the term "property valuation" rather than "appraisal," reflecting that an appraisal will not necessarily be the valuation method used to investigate a reinstatement request. Beyond this technical change, proposed § 226.5b(g)(2)(iii) would grant the consumer one reinstatement request investigation free of charge. That is, for consumers required by the creditor to request reinstatement, the regulation would prohibit a creditor from charging the consumer any fees for investigating the consumer's first reinstatement request after each time the line is frozen or reduced. Proposed § 226.5b(g)(2)(iv) would permit a creditor to charge bona fide and reasonable property valuation and credit report fees only for investigations of reinstatement requests other than the consumer's initial request after a line is suspended or reduced.***
>
> ***The Board requests comment on this approach, including whether consumers should have to pay reinstatement investigation costs for any reinstatement***

> ***request. The Board also requests comment on whether, if the first reinstatement request is free but fees may be charged for subsequent requests, a consumer should be required to pay investigation costs for a subsequent reinstatement request made a significant time period after the first request, such as six months, one year, or other appropriate time period commenters might suggest. Finally, the Board requests comment on whether the Board should consider requiring that the amount of the fees be disclosed along with the notice that the consumer must request reinstatement, and the burdens and benefits of this requirement. (pgs. 43496-43497)***

AFSA members do not oppose the proposal that a consumer's first reinstatement request investigation be free of charge. However, given the cost of appraisals, AFSA members request that, in the event a consumer requests an appraisal, or if a creditor deems that an appraisal is necessary, that the consumer bear the cost of the appraisal. Providing the first reinstatement request investigation entirely free of charge to consumers presents the potential for abuse. There is no limit on when a consumer can request a reinstatement investigation, and therefore a consumer may do so even when the circumstances that caused the creditor to reduce or suspend the HELOC are still present. In order to prevent frivolous reinstatement requests, it is appropriate to require consumers to bear the cost of appraisal in the first reinstatement request investigation.

AFSA members ask the Board to keep in mind that creditors' primary goal is to serve their customers well and are therefore incentivized to suspend or terminate an account only when necessary to protect the creditors' interest or to protect consumers from taking further advances and overextending themselves when they are in a precarious financial situation.

Additionally, AFSA members note that the concerns surrounding reinstatement is a relatively new issue that has arisen in response to the current crisis. AFSA members suggest that perhaps additional studies by the Board may be appropriate before creating a rule in this area.

> *<u>Notice of Reinstatement Results</u>.* ***The Board believes, however, that the benefits of this notice requirement outweigh the burden. First, the Board believes that this provision upholds the consumer protection purpose of TILA by ensuring that consumers are adequately informed about the status of their HELOC accounts and responds to concerns expressed to the Board that currently many consumers are not. With this notice, consumers would be better equipped to take appropriate action, such as working to improve their credit or making alternative financial plans. In addition, the Board anticipates that this notice requirement may reduce consumer requests and complaints, because transparent investigation results***
> ***will help consumers better understand the reasons for continued freezes or reductions and assure consumers that their reinstatement requests were considered.***
>
> ***The Board requests comment on this disclosure requirement, and on whether creditors also should be required to provide notice of reinstatement results to***

consumers whose accounts will be reinstated, but with the option to provide notice orally to these consumers. (pg. 43497)

AFSA members believe that almost all creditors currently inform borrowers in writing of decisions made regarding the status of their HELOC accounts, and thus do not object to the imposition of a written notice requirement. However, it would seem appropriate to permit oral notice when a creditor decides to reinstate a consumer's access to a HELOC. The only concern AFSA members wish to express is that the Board not impose an unduly harsh timing requirement that forces creditors to make a decision, and communicate it in writing, before creditors have all the information needed to make an informed decision.

<u>Providing Valuation Information to Consumers</u>. The Board believes that consumers should have access to information about the property value on which action was relied because a line suspension or reduction may result in serious financial consequences to consumers. In light of the significance of the impact on the consumer of the creditor's actions, the consumer should be fully equipped with necessary information to challenge the finding or otherwise request reinstatement.

The Board requests comment on the appropriateness of this requirement, as well as the operational practicality for creditors of obtaining and providing the required documentation. (pg. 43497)

AFSA members would not object to a rule that requires them to state the type of evaluation method used or, upon the consumer's request, the valuation of the home. However, due to the online nature of many tools currently used by creditors, it might be difficult to provide "documentation" of the decision in the traditional way – by giving a consumer a copy of a written appraisal.

<u>Relevance of Certain Comments for HELOC Accounts</u>. Proposed commentary for § 226.6(a)(5)(i), (ii), and (iii) would parallel the commentary to § 226.6(b)(5)(i), (ii), and (iii), respectively, with adjustments to address differences between HELOCs and open-end (not home-secured) credit and between the rules applicable to each. For example, in proposed comment 6(a)(5)(ii)-2, a reference to "your home" (as the collateral for the credit) would be substituted for "motor vehicle or household appliances." Comments 6(b)(5)(ii)-4 and -5 for open-end (not home-secured) credit do not appear relevant to HELOCs, and therefore parallel comments under § 226.6(a)(5)(ii) are not proposed and current comments 6(a)(4)-4 and -5, which state these interpretations for HELOCs, would be deleted. Comment 6(b)(5)(ii)-4 (and comment 6(a)(4)-4) addresses the situation where collateral will be required only when the outstanding balance reaches a certain amount; HELOCs generally require that the consumer's home secure the line of credit from the outset. Comment 6(b)(5)(ii)-5 (and comment 6(a)(4)-5) discusses circumstances in which the collateral is owned by someone other than the consumer liable for the credit extended; this would generally not be the case with HELOCs.

> ***However, the Board requests comment on whether, and how often, the situations addressed by these two comments might occur in HELOC accounts, and accordingly should be retained for HELOCs. (pg. 43507)***

Although it is rare, some HELOCs are secured by property where the owner is not the obligor under the plan. Therefore, the Board may want to consider retaining the current comment at 6(b)(5)(ii)-5.

> ***<u>Periodic Statement Requirements - Processing System Limitations</u>. [T]he proposed periodic statement requirements in § 226.7(a) applicable to HELOC creditors are substantially similar to the requirements in § 226.7(b) applicable to open-end (not home-secured) plans, except for provisions related to the itemization of interest charges in § 226.7(a)(6), and certain late-payment disclosures, minimum***
> ***payment disclosures and formatting requirements related to those disclosures, as discussed in more detail below.***
>
> ***The Board requests comment on whether creditors that currently use a single processing system to generate periodic statements for all open-end products they offer would be able to continue to do so under the proposal. (pg. 43510)***

Several AFSA members and many other creditors that offer HELOCs do not use the same system for non-home-secured plans. In fact, HELOCs are often the only revolving product offered by many lenders. Thus, the institution of costly processing systems is a considerable burden on AFSA members and other such lenders. AFSA members urge the Board to consider the utility of the detailed statement requirements for HELOCs, where the consumer rarely has transactions in more than one or two billing cycles per year and there are far fewer types of fees imposed. All in all, as suggested below, HELOC statements are not confusing for consumers.

> ***<u>Periodic Statement Requirements - Grouping of HELOC Fees</u>. [T]he Board proposes under § 226.7(a)(6)(iii) to require creditors offering HELOCs subject to § 226.5b to group fees together. Under the proposal, a creditor would be required to group all fees assessed on the account during the billing cycle together under one heading even if fees may be attributable to different users of the account or to different sub-accounts.***
>
> ***The Board solicits comment on this aspect of the proposal. Specifically, the Board***
> ***solicits comment on whether grouping fees together (and not allowing them to be interspersed with transactions) is necessary to help consumer find fees more easily on HELOC accounts.***
>
> ***The Board understands that consumers may use unsecured credit cards differently than HELOC accounts, even where the HELOC is linked to a credit card device. For example, consumers may use unsecured credit cards to engage in a significant number of smaller transactions per billing cycle. On the other hand, consumers appear to use their HELOC accounts for only a small number***

of larger transactions each billing cycle, even if those HELOCs are linked to credit card devices. Consumers may have more difficulty identifying fees on unsecured credit cards when the fees are interspersed with transactions because of the large number of transactions shown on the periodic statement. The Board solicits comment on the typical number of transactions and fees shown on periodic statements for HELOC accounts. The Board also solicits comment on the burden on creditors and the benefit to consumers of requiring fees to be grouped together on periodic statements for HELOC accounts. (pg. 43513)

AFSA members do not believe that this requirement provides any particular benefit to consumers. The requirement was proposed for unsecured credit cards where any particular billing cycle may include a dozen or more purchases, several cash advance fees and other fees and charges. HELOC statements tend to show many fewer transactions and fees. There is much less chance that a consumer would not notice a fee being assessed because it was lost among other transaction information. Also, the cost of implementing this particular requirement could be prohibitive, particularly for smaller lenders. Larger lenders that have credit card systems that are also used for HELOCs would find it easy to implement these changes. However, many lenders – even ones that offer credit cards – use a different processing system for HELOCs. It is not clear at all that the few benefits, if any, this formatting change might offer would offset the significant cost involved.

<u>Periodic Statement Requirements – Acquired Accounts</u>. ***Proposed comments 7(a)-6 and -7 clarify a creditor's obligations under § 227.7(a)(6) when it acquires a HELOC account from another creditor or when a creditor replaces one HELOC account it has with a consumer with another HELOC account. The proposed comments would generally provide that the creditor must include the interest charges and fees incurred by the consumer prior to the account acquisition or replacement in the aggregate totals provided for the statement period and calendar year to date after the change. At the creditor's option, the creditor would be allowed to add the prior charges and fees to the disclosed totals following the change, or it may provide separate totals for each time period.***

Comment is requested regarding the operational issues associated with carrying over cost totals in the circumstances described in the proposed commentary. (pg. 43514)

AFSA members strongly oppose the proposal to require creditors to disclose interest and charges incurred by a consumer prior to the account acquisition. Such a requirement would impose significant operational burdens and costs on creditors. As a practical matter, it would be extremely difficult, if not impossible for creditors that acquire new accounts from other creditors to obtain this information in a manner that could be incorporated into their servicing systems. Also, as a matter of fairness, it is unreasonable to create liability for creditors when compliance with the rule is wholly dependent upon the cooperation of a third party.

> ***<u>Periodic Statement Requirements – Late Payments/Crediting of Payments</u>. The Board does not propose to use its authority under TILA Section 105(a) to require creditors offering HELOC accounts subject to § 226.5b to provide the late-payment disclosures on periodic statements, or to comply with the provision about crediting of payments made at a financial institution's branches or offices, as set forth in the Credit Card Act.***
>
> ***The Board solicits comment on this aspect of the proposal. (pg. 43516)***

AFSA members support this aspect of the proposal and do not feel it is necessary for creditors offering HELOC accounts subject to § 226.5b to provide the late payment disclosures on periodic statements, or to comply with the provision about crediting of payments made at a financial institution's branches or offices, as set forth in the Credit Card Act.

> ***<u>Advance Notice Requirements – Time Period</u>. The Board solicits comment on whether 45 days is an appropriate period for the advance notice requirement for changes in terms of HELOCs. Commenters are asked to address, for example, whether it may be more difficult to seek alternative financing or otherwise mitigate the impact of a change in terms for HELOCs than for credit card accounts, as well as whether, because changes in terms are more narrowly restricted for HELOCs than for credit card accounts, the impact on consumers of term changes for HELOCs is likely to be less severe than for credit cards and thus the proposed time period is likely adequate. (pg. 43518)***

AFSA members support the 45 day advance notice requirement, provided it applies only to HELOC accounts that are opened after the effective date of this change. Some AFSA members currently have HELOCs with monthly rate and payment amount changes. The 45 day notice requirement is not feasible on these accounts, and creditors are restricted from changing the terms of the underlying agreement to comply with the 45 day notice requirement. Therefore, AFSA members request that the 45 day advance notice requirement apply only a go forward basis so that creditors can ensure that the terms of the HELOC will allow for 45 days advance notice.

> ***<u>Rate Increase Disclosures</u>. [T]he disclosure under § 226.9(g)(3)(i)(E) would not appear appropriate for HELOCs. However, the disclosure under § 226.9(i)(3)(i)(D) may be useful to indicate, for example, whether a rate increase would apply to balances under the regular variable-rate feature of a HELOC, while not applying to balances under a fixed-rate option.***
>
> ***The Board solicits comment on the appropriateness of this disclosure. (pg. 43521)***

AFSA members do not understand the necessity of requiring a notice under §226.9(i)(3(i)(D) for HELOCs. Creditors generally do a very good job informing consumers of the rates applicable to various balances. This disclosures would seem to be unwarranted without evidence that customers have been confused about their HELOC fixed-rate options.

<u>"Specific Reasons" Requirement</u>. The Board requests comment on whether more or less information than the information proposed would be appropriate to require to meet the "specific reasons" disclosure requirement when action is taken for any of the reasons permitted under § 226.5b(f)(3)(i) and (f)(3)(vi). The Board requests comment in particular on whether more or less information would be appropriate to require to meet the "specific reasons" disclosure requirement when action is taken due to a material change in the consumer's financial circumstances under § 226.5b(f)(3)(vi)(B). (pg. 43522)

AFSA members believe the Board's proposed commentary to § 226.9(j)(3) generally strikes an appropriate balance and provides consumers with sufficient information to understand the creditor's reason for taking action and, where appropriate, rectify the problem. However, the Board may want to consider revising Comment 226.9(j)(3)(ii). It should be sufficient for creditors to notify consumers that they have taken action because of the consumer's failure to make timely payment. The specific language used in this Comment may lead a judge to determine that a creditor has violated the law if it fails to specify that the payment was not made within 30 days or any fails to specify the regulatory section. The last clause in the last sentence in this Comment could be revised to read: "such as the consumer failed to make timely payment." Such a statement is clearly sufficient to inform the consumer of the reason the creditor took such action.

<u>Inclusion of Toll-Free Number</u>. The Board requests comment on whether the creditor should also be required to include on the notice a toll-free telephone number that the consumer may call to receive additional information about the action taken and other information on the notice, particularly when the reason for the action is stated simply as fraud or material misrepresentation. (pg. 43523)

AFSA members urge the Board not to require the inclusion of a toll-free telephone number for these notices. The maintenance of a toll-free telephone line, and the continual training of personal in how to respond to a special line is needlessly expensive. Unless there is clear evidence the consumers need, and would use, such a special line, the benefits would not seem to outweigh the cost involved.

AFSA appreciates the opportunity to comment on the Proposed Rule. Please feel free to contact me with any questions at 202-296-5544, ext. 616 or bhimpler@afsamail.org.

Respectfully submitted,

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